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10 Attorneys for Defendants
11 LISA FARIA, SHARA MESIC BELTRANO and
12 STACY PETTIGREW in their capacities
13 as Alameda County Deputy District Attorneys
14

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17

18 CORNELIUS LOPES,

NO. C-07-6213 PJH

19 Plaintiff,

20 vs.

21 FREMONT FREEWHEELERS, et al.,

22 Defendants.
23 _____ /

NOTICE OF MOTION AND MOTION TO
DISMISS COMPLAINT FOR FAILURE TO
STATE A CLAIM UPON WHICH RELIEF CAN
BE GRANTED [FRCP 12(b)(6)] OR, IN THE
ALTERNATIVE, MOTION FOR MORE
DEFINITE STATEMENT [FRCP 12(e)]

Date: June 25, 2008

Time: 9:00 a.m.

Dept.: Courtroom 3, 17th Floor

Judge: Phyllis J. Hamilton

24 TO ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE that on June 25, 2008 or as soon thereafter as the matter may be heard
26 in Courtroom 3 of the above-entitled court located at 450 Golden Gate Avenue, San Francisco,
27 California, defendants Alameda County Deputy District Attorneys LISA FARIA, SHARA MESIC
28 BELTRANO and STACY PETTIGREW will and do hereby move this Court to dismiss Plaintiff's
Complaint, and every claim therein, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure

1 because Plaintiff's Complaint fails to state a claim upon which relief can be granted, on the grounds that:
 2 Plaintiff's Complaint is too vague to determine what is being alleged against which Defendant,
 3 Plaintiff's vague claims are barred by *res judicata*, prosecutorial immunity, and the statute of limitations,
 4 and any state tort claim is barred by Plaintiff's failure to exhaust administrative remedies. In the
 5 alternative, Defendants will and hereby do move this Court for a more definite statement regarding
 6 Plaintiff's Complaint, and each claim stated therein, pursuant to Rule 12(e) of the Federal Rules of Civil
 7 Procedure.

8 This Motion will be based upon this Notice of Motion, the attached Memorandum of Points and
 9 Authorities and Request for Judicial Notice served and filed herewith, the Complaint, the papers and
 10 records on file in the above-entitled matter, and on such other oral and documentary evidence as may be
 11 presented at the hearing of this motion.

12
 13 Dated: May 13, 2008

PATTON ♦ WOLAN ♦ CARLISE LLP

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 15 by: _____/s/_____

16 STEVEN C. WOLAN

17 ANDREA S. CARLISE

18 MAUREEN M. DUFFY

19 Attorneys for Defendants

20 LISA FARIA, SHARA MESIC BELTRANO and

21 STACY PETTIGREW in their capacities

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